

Exhibit 1

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

WAG ACQUISITION, L.L.C.,

Plaintiff,

vs.

GATTYAN GROUP S.a.r.l., et
al,

Defendants.

)

)

)

)

)

) Civil Action

) No. 2:14-cv-02832

) (ES) (MAH)

)

)

)

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
KEITH J. TERUYA
Taken in behalf of Defendants

* * *

February 24, 2021

McMinnville, Oregon

Teresa L. Dunn, CSR, CCR, RPR
Court Reporter

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

WAG ACQUISITION, L.L.C.,

Plaintiff,

vs.

FLYING CROCODILE, INC.,

d/b/a FCI, INC., et al,

Defendants.

Case No.

2:19-cv-01278-BJR

VIDEOTAPED VIDEOCONFERENCE DEPOSITION OF
KEITH J. TERUYA
Taken in behalf of Defendants

* * *

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McMinnville, Oregon

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Court Reporter

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1 MCMINNVILLE, OREGON;

2 WEDNESDAY, FEBRUARY 24, 2021

3 10:05 a.m.

4 * * *

5 (Deposition Exhibits Numbers 1 and 2

6 marked for identification.) 09:21:06

7 THE VIDEOGRAPHER: Good morning. We're 10:05:52

8 now on the record. The time is 10:06 a.m., 10:06:32

9 February 24th, 2021. 10:06:36

10 Please note that microphones are 10:06:39

11 sensitive and may pick up whispering, private 10:06:41

12 conversations, and cellular interference. 10:06:44

13 Please turn off all cell phones or place them 10:06:46

14 away from the microphone as they can interfere 10:06:49

15 with deposition audio. Audio and video will 10:06:51

16 continue to record unless all parties agree to 10:06:54

17 go off the record. 10:06:56

18 This is the recorded deposition of 10:06:57

19 Kenneth Teruya in the matter of WAG 10:06:59

20 Acquisitions, LLC, versus Gattyman Group, 10:07:03

21 S.a.r.l., attention all, case number 10:07:07

22 2:14-cv-02832 (ES) (MAH). 10:07:14

23 My name is DaShun Montgomery and I'm the 10:07:17

24 videographer and the court reporter is Teresa 10:07:19

25 Dunn. 10:07:21

1 claim 24 of the '141 patent. 10:31:45

2 A. I'm sorry, can you tell that to me 10:31:48

3 again? I'll write it down. 10:31:53

4 Q. No problem. 10:31:55

5 A. Column and line? 10:31:56

6 Q. Sure. Column 15, line 18. 10:31:57

7 A. All right. 10:32:21

8 Q. I'm going to read this claim limitation 10:32:22

9 from claim 24 into the record. It says, A 10:32:24

10 routine that requests transmission of the next 10:32:27

11 sequential media data elements following said 10:32:30

12 last sequential media data element as said media 10:32:34

13 player requires in order to maintain a 10:32:37

14 sufficient number of media data elements in the 10:32:39

15 media player for uninterrupted playback. 10:32:41

16 Do you see that? 10:32:45

17 A. Yes. 10:32:45

18 Q. In the year 2000 when these patents were 10:32:45

19 filed what would a person of ordinary skill in 10:32:52

20 the art understand a media data element to be? 10:32:54

21 MR. ABRAMSON: Objection to form. 10:32:59

22 THE WITNESS: In the year 2000? 10:33:01

23 Q. (By Mr. Wells) Yes. 10:33:09

24 A. I would say that in the year 2000 a 10:33:10

25 media data element was something that pertained 10:33:13

1 to media data. 10:33:17

2 Q. Okay. Can you give me an example of 10:33:19

3 what a media data element would mean to a person 10:33:39

4 of ordinary skill in the art in 2000? 10:33:43

5 MR. ABRAMSON: Objection, form. 10:33:46

6 THE WITNESS: It could be audio, it 10:33:48

7 could be video, it could be a combination of the 10:33:54

8 two, could be, you know, the computer, you know, 10:33:57

9 application fragments that dealt with media, it 10:34:12

10 could be -- could be a number of things, but, 10:34:15

11 you know, specifically I believe that they would 10:34:19

12 relate to some form of media interaction if you 10:34:22

13 use that term media data. 10:34:27

14 Q. (By Mr. Wells) And, again, from the 10:34:31

15 perspective of a person of ordinary skill in the 10:34:41

16 art in the year 2000 could a media data element 10:34:44

17 be a byte? 10:34:47

18 A. I would say that a byte would not be 10:34:49

19 descriptive, no. 10:34:58

20 Q. Why is that? 10:34:59

21 A. Oh, it's saying is a cell a human. It's 10:35:00

22 not descriptive enough to say a cell. 10:35:06

23 Q. Okay. So it's your testimony that a 10:35:11

24 byte is not a media data element, correct? 10:35:14

25 MR. ABRAMSON: Objection to form. 10:35:17

1 THE WITNESS: I did not say that. I 10:35:18
2 said it is not descriptive enough in order to 10:35:20
3 form an opinion that it is media data. 10:35:23

4 Q. (By Mr. Wells) What would you need to 10:35:26
5 form an opinion that it's media data? 10:35:28

6 A. Well, I think you would need more than 10:35:30
7 one byte in order to do that. 10:35:33

8 Q. How many bytes would you need? 10:35:37

9 A. Enough for it to become descriptive. It 10:35:40
10 is the same as how many cells do you need in 10:35:48
11 order to determine what something is in form, 10:35:51
12 you know, it would be a minimum number. 10:36:00

13 And that would be different, you know, 10:36:02
14 for, you know, every entity that you are trying 10:36:06
15 to describe. 10:36:11

16 Q. So are you able to determine how many 10:36:11
17 bytes you would need to be a media data element? 10:36:21

18 A. I just explained that there's no context 10:36:27
19 in a byte in order to determine that it's media. 10:36:33

20 Q. Does the '141 patent that you have in 10:36:38
21 front of you, does that patent tell you how many 10:36:51
22 bytes you need in order for it to be a media 10:36:53
23 data element? 10:36:57

24 A. No, it does not because in the example 10:36:57
25 that you gave as an example of a byte, a byte is 10:37:01

1	no.	11:37:54
2	Q. (By Mr. Wells) Would the designer need	11:37:54
3	to know the units of how that rate is expressed,	11:37:57
4	that sending rate, in designing the system?	11:38:00
5	A. At what level?	11:38:02
6	Q. At the level expressed in the claim.	11:38:05
7	A. There is no level expressed in the	11:38:07
8	claim. The claim states sufficient data to	11:38:17
9	start, right, and to sustain.	11:38:21
10	Q. How is the sending rate in claim 1 of	11:38:29
11	the '611 patent described in the specification?	11:38:53
12	A. I'm sorry, what specification are you	11:38:56
13	referring to?	11:38:59
14	Q. The patent that we're looking at right	11:39:00
15	now is the '611 patent so you can just stay with	11:39:02
16	that specification.	11:39:06
17	A. Can you give me a reference to the	11:39:09
18	specification area?	11:39:17
19	Q. Sure. Why don't we take as an example	11:39:18
20	column 9 right around line 38 or so.	11:39:21
21	A. Column 9, 38. Okay.	11:39:32
22	Q. Okay. Right around line 40 it reads,	11:39:44
23	The buffer level of the user buffer will fill at	11:39:44
24	the rate of 32,000 bits -- at line 40 of column	11:40:01
25	9 of the '611 patent it reads, The buffer level	11:40:03

1 of the user buffer will fill the rate of 32,000 11:40:07
2 bits per second. 11:40:12

3 Do you see that? 11:40:13

4 A. Yes. 11:40:14

5 Q. Are those units that you would 11:40:15
6 understand the rate to be measured in? 11:40:19

7 A. Yes, but remember I mentioned in my 11:40:20
8 previous answer about measurement at what level? 11:40:26

9 Do you remember what I said? 11:40:33

10 Q. Okay. So what level is this discussing 11:40:36
11 here? 11:40:38

12 A. This is that a media -- a physical 11:40:38
13 network transport media discussion about how 11:40:43
14 many bits per second the internet channel is. 11:40:49

15 We're not talking about media movement 11:40:53
16 here. We're talking about the maximum rate at 11:40:56
17 which the media could move at this -- by these 11:40:59
18 definitions of bit rates way down at the 11:41:03
19 Ethernet or transport media level, not the media 11:41:09
20 at the upper levels of frame rates for video or 11:41:15
21 anything like that. 11:41:19

22 And what this would dictate is the 11:41:20
23 responsiveness from a programmatic standpoint 11:41:24
24 about the size of the initial buffer and what is 11:41:28
25 required to make sustained transmission 11:41:31

1 uninterrupted and what these things will define 11:41:36

2 is the outside capacity of what you can do. 11:41:41

3 Q. Okay. So the sending rate in claim 1 of 11:41:47

4 the '611 patent is not discussing the data 11:41:51

5 transmission at the transport layer, correct? 11:41:58

6 MR. ABRAMSON: Object to the form. 11:42:01

7 THE WITNESS: That's not -- do you want 11:42:02

8 to rephrase that question because there are 11:42:10

9 elements to that statement that are not 11:42:14

10 reflected in what the claim is asserting to. 11:42:21

11 Q. (By Mr. Wells) Okay. I'm just looking 11:42:25

12 at your previous answer. You said that the bits 11:42:27

13 per second discussion in column 9 has to do with 11:42:34

14 data movement at the transport layer, correct? 11:42:38

15 A. At the transport media layer. 11:42:41

16 Q. Okay. So my question is, the sending 11:42:46

17 rate described in claim 1 of the '611 patent is 11:42:52

18 not the rate at that transport media layer, 11:42:56

19 correct? 11:43:00

20 MR. ABRAMSON: Object to the form. 11:43:00

21 THE WITNESS: The example that you made 11:43:01

22 me reference, that we just finished referencing, 11:43:08

23 was to provide an example of why it is you may 11:43:13

24 or may not need to fill buffers, at what 11:43:19

25 capacity based, say, on what level of 11:43:27

C E R T I F I C A T E

I, Teresa L. Dunn, a Certified Shorthand Reporter for Oregon, do hereby certify that, pursuant to stipulation of counsel for the respective parties hereinbefore set forth, KEITH J. TERUYA appeared virtually before me at the time and place set forth in the caption hereof; that at said time and place I reported in Stenotype all testimony adduced and other oral proceedings had in the foregoing matter; that thereafter my notes were reduced to typewriting under my direction; and that the foregoing transcript, pages 1 to 100, both inclusive, constitutes a full, true and accurate record of all such testimony adduced and oral proceedings had, and of the whole thereof. Witness my hand and CSR stamp at Vancouver, Washington, this 27th day of February, 2021.



TERESA L. DUNN,
Certified Shorthand Reporter
Certificate No. 00-0367
Expiration Date: 6/30/2023